Remarks

The present Response is to the Office Action mailed 01/29/2009. Claims 29, 31 and 33 are presented for examination.

Claim Rejections - 35 USC § 101

4.   Claim 29 is rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent *(Diamond v. Diehr,* 450 U.S. 175, 184 (1981); *Parker v. Flook,* 437 U.S. 584 n.9 (1978); *Gottschalk v. Benson, 409* U.S. 63, 70 (1972); *Cochrane v. Deener,* 94 U.S. 780, 787-788 (1876)), and recent Federal Circuit decisions *(In re Bilski,* 88 USPQ2d 1385 (Fed. Cir. 2008) indicate that a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim recites a series of steps or acts to be performed, the claim neither transforms underlying subject matter nor is positively tied to another statutory category that accomplishes the claimed method steps, and therefore does not qualify as a statutory process. The Applicant has provided no explicit and deliberate definitions of responding, building, determining, and selecting to limit the steps of assigning tasks to agents, and the claim language itself is sufficiently broad to read on a supervisor being shown a list of an incoming call to be assigned, mentally thinking skills of his/her available agents, determining which available agent qualified to service a task and select an agent with least qualified, and ask that agent to answer the call.

Claim 33 is rejected under 35 U.S.C. 101 because the claimed invention falls outside of the statutory categories. Claim 31 recites "Computer program code..." and computer program code is software per se is neither a "product" nor a "process" in a statutory sense. The aforementioned intrinsic evidence in the specification suggests that the full scope of the claimed method encompasses nothing more than software and is therefore non-statutory for that reason. Furthermore, a practical application exists if the

result of the claimed invention is "useful, concrete and tangible". Thus, computer program code would not provide a tangible result.

Applicant's response:

Regarding claim 29, applicant herein amends the claim to recite:

29. A method for assigning tasks to agents in a service center based on an agent skill set required to service individual tasks, the method performed by software executing from a computerized server, comprising steps of;

(a) receiving a task at a server operating within the service center;

(b) preparing the task for service by determining the agent skill set that would be best suited for responding to the task,

(c) building a skill table of all available agents having skills at least partially matching the determination of skills needed to service the task in step (a), wherein the skill table is organized by skill sets that include all skills possessed by the agents;

(d) determining from the skill table of available agents all agents qualified to service the task;

(e) selecting an agent least qualified to service the task from the agents determined to be qualified to service the task and assigning the task to the selected agent; and

(f) servicing the task by the selected agent utilizing at least a portion of the skills listed in the skill table.

Applicant argues that claim 29, as amended, transforms underlying subject matter (received task) to a different state or thing because the task is assigned to an agent and serviced. Therefore, its state is thereby changed.

Regarding claim 33, applicant believes the examiner erred when presenting claim 33, then referring to claim 31. For the sake of the present invention, applicant assumes the examiner means claim 33. Applicant herein amends the specification to include a computerized server in the task center for performing the method utilizing software code. Applicant argues that the specification does not add new matter because it is notoriously

well known in the art that the types of processes previously described in the specification, including canonical expressions (binary encoding), AND/OR operators, etc. constitute operations performed by computer software, which inherently must execute from a computer readable medium in order to operate. Therefore, applicant believes the amendment to the specification should be allowed and the 101 rejection be withdrawn.

Claim Rejections - 35 USC § 112

Claim 31 is drawn to an apparatus comprises various means. Corresponding structure, material or acts are not clearly described in the specification and one skill in the art could not identify the structure, material or acts from the description, hence the specification provide evidence that the 112 second paragraph is not satisfied.

Applicant's response:

Applicant herein amends claim 31 to recite a computerized server including software executing from a computer readable medium for assigning tasks to agents in a service center based on an agent skill set required to service individual tasks. With the acceptance of the specification amendment presented above, the 112 rejection should be withdrawn.

Claim Rejections - 35 USC § 103

6. Claims 29, 31, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Villena et al. (U.S. Patent. 6,832,203).

Regarding claims 29 and 31, Villena et al. discloses a method of assigning tasks to agents in a service center based on agent skills required to service individual tasks (col. 2, lines 18-19), comprising:

(a) in response to a task to be service, determining a skill set that would be best suited for responding to the task (col. 2, lines 38-53);

(b) building a skill table of all available agents having skills at least partially matching the determination of skills needed to service the task (Fig. 2; col. 3, lines 40-45

and lines 62-65; col. 4, lines 40-44), wherein the skill table is organized by skill sets that include all skills possessed by the agents (Fig. 2; col. 3, line 49 through col. 4, line 51);

(c) determining from the skill table of available agents all agents qualified to service the task (col. 3, lines 25-28; col. 4, lines 46-48);

(d) selecting an agent least qualified to service the task from the agents determined to be qualified to service the task (col. 4, lines 46-51). Selecting an agent least qualified to service the task from agents determined to be qualified to service the task is well known in Automatic Call Distributing Center and the advantage of selecting an agent with a minimum qualification among the agents determined to be qualified to service the task is also well known. For example, if agent A1 speaks English and Spanish, agent A2 speaks only English, a task needs to be serviced is English then one would select agent A2 with a minimum qualification level to service the task and reserving agent A1 for next task that needs a Spanish speaking agent.

Villena does not explicitly teach building a skill table of all available agents having skills at least partially matching the determination of skills needed to service the task in step (a). However, Villena teaches building a table involves the skill vector <u>for a particular service types</u> (Fig. 2; col. 3, lines 40-45) and if the agent vector does not have a particular specified minimum proficiency for each <u>particular skill required by a service</u>, the agent will not be assigned <u>contacts that require that service</u> (col. 4, lines 40-44). Hence, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the skills required to service the task are determined, an agent table is built including agents having skills required to service the task. Again, even if Villena does not have steps in the same order as the instant application, to have steps in different order and still performing the same functions and without departing from the teachings of the prior art do not rise the patent application to the level of patentability.

Claim 33 is rejected for the same reasons as discussed above with respect to claim 1. Furthermore, Sassin et al. teach computer program code embodied in a storage medium for controlling a computer to assign tasks to agents (col. 1, lines 24-26 - *where Villena discussed call center architecture and logistics for providing best possible service for all types* of *contacts, for example computer storage medium, program code, etc.).*

Applicant's response:

Applicant will first point out that the Examiner mentions Sassin in the above rejection, although Sassin is not formally mention in the 103 rejection and Sassin has obviously been overcome as a result of applicant's previous filed Response.

Applicant fails to see teaching in the art wherein an agent that is least qualified to service the task from the agents determined to be qualified to service the task, even though the Examiner provides col. 4, lines 46-51. This portion of Villena merely teaches that an agent must have a minimum amount of skills to be considered for servicing the contact. Villena actually teaches that of all agents with a minimum skill requirement to perform the task; when a contact comes in, the best available agent is assigned to that contact.

The Examiner compensates for this lack of teaching in the art by stating, "Selecting an agent least qualified to service the task from agents determined to be qualified to service the task is well known in Automatic Call Distributing Center and the advantage of selecting an agent with a minimum qualification among the agents determined to be qualified to service the task is also well known." Applicant is not aware of such art. Additionally, the art that is presented actually teaches away from the claimed limitation stating the best agent is selected from the pool of qualifying agents. Applicant respectfully requests the Examiner provide such art with valid reasoning and motivation for making the combination with Villena.

The Examiner states that Villena does not explicitly teach building a skill table of all available agents having skills at least partially matching the determination of skills needed to service the task in step (a). The Examiner also fails to give any valid reasoning of why it would have been obvious in view of Villena and what is generally known in the art.

Applicant strongly argues that this table is essential in applicant's invention for actually determining the agent least qualified; as the determination of the least qualified agent is made by accessing the table. The table taught in Villena at column 3 is a table of agents and skills belonging to a specific queue of a plurality of queues. This table is not a

table of all available agents and their skills, as claimed. Only with a table as claimed in applicant's invention is it possible to select the least qualified agent.

The Examiner states, "Again, even if Villena does not have steps in the same order as the instant application, to have steps in different order and still performing the same functions and without departing from the teachings of the prior art do not rise the patent application to the level of patentability." Applicant strongly argues that Villena clearly does not perform the same functions as claimed in applicant's invention, no matter what order the teaching of Villena is arranged in. Villena fails to teach the steps claimed in applicant's invention and the Examiner may not simply waive the requirement to show applicant's invention in the art when attempting to present a valid rejection by stating it would have been obvious to one with skill in the art. Villena fails to create a table of agents and skills in response to receiving a task to be assigned. Villena fails to teach selecting a least qualified agent to service a task.

Applicant believes claims 29, 31 and 33, as amended, are clearly patentable over the art of Villena and the reasoning provided by the Examiner.

Summary

As all of the claims, as amended and argued above, have been shown to be patentable over the art presented by the Examiner, applicant respectfully requests reconsideration and the case be passed quickly to issue.

If any fees are due beyond fees paid with this amendment, authorization is made to deduct those fees from deposit account 50-0534. If any time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

Respectfully Submitted,
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